



April 12, 2006

Dr. Jerry L. Falwell, Sr.  
Chancellor  
Liberty University  
1971 University Boulevard  
Lynchburg, VA 24502-2269

**Certified Mail**  
**Return Receipt Requested**  
**7005 1160 0004 9624 9879**

OPE ID: 02053000

Dear Dr. Falwell:

I am writing to advise you of a complaint recently filed against Liberty University (LU; the University) and to request your assistance in evaluating the issues raised by the complainant. On March 9, 2006, Security on Campus, Inc. (SOC), a national advocacy group, filed a complaint alleging violations of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The complaint focuses on LU's handling of a sexual assault alleged to have occurred in April 2005.

When the U.S. Department of Education (ED) receives a written complaint, our office evaluates the complainant's materials and determines an appropriate course of action. Because the complaint alleges serious Clery Act violations, it is necessary to examine the University's compliance in more detail. In furtherance of our review, we are requesting detailed responses to a number of items below. Whenever possible, please ensure that your response addresses general University policies and procedures as well as the specific handling of the April 2005 incident that gives rise to this inquiry. In addition to providing information and documents for our consideration, the institution should treat its response as an opportunity to respond to the complainant's concerns as well.

Specifically, the complainants allege that the University failed to treat the April 2005 incident as a reported forcible sex offense. Moreover, the complaint states that LU also failed to initiate other actions required by the Clery Act such as the issuance of a "timely warning" and an entry of the reported sexual assault in its public crime log. The complaint notes that this was true even though the responding officer's actions indicated that she had probable cause to believe that a sexual assault had occurred.

The complainant also asserted that certain Liberty students who requested access to the public crime log mandated by the Clery Act were told by University officials that, "there was no public crime log and that they had no crime log that was open to students." Moreover, certain Liberty students who are assisting SOC with their investigation have

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asserted that the 2005 annual campus security report was not readily available to students as late as February 2006. The complaint states that institutional employees told students that LU “had not compiled 2005 yet.” As you know, the Clery Act requires that institutions distribute an annual campus security report disclosing incidents of campus crime reported during the three most recent calendar years no later than October 1st of each year.

The complaint also asserts that LU’s “2004 report also omits required policy statements about how the University’s crime statistics are collected and whether or not there is a voluntary confidential reporting process for pastoral and mental health counselors to refer reports of crime to (34 CFR 668.46(b)(2)). The 2004 report also fails to properly break down the homicide categories (fortunately there were none to report during the covered years) into Murder and Non-negligent manslaughter and then Negligent manslaughter, fails to include a comprehensive campus category (there are only non-residential and residential which omits the required combined total of these two categories), and fails to properly separate arrests from disciplinary referrals.” ED has emphasized that the annual campus security report is first and foremost a consumer information tool. One of the primary purposes of the annual campus security report is the dissemination of accurate and complete policy information so that interested students, employees, and other stakeholders are aware of programs and services, can make sound decisions, and take proactive steps to provide for their own safety and well being. For these reasons, we will be examining the institution’s policy development and implementation process in more detail.

We are in the early stages of our inquiry. At this point, it is necessary to better understand the University’s position. In accordance with our process, the University will be afforded an opportunity to respond to the complainant’s allegations and present information in support of its position. We will not make any Final Determinations before considering all relevant information.

An important focus area of our review will be the University’s handling of the April 2005 incident. During our initial research, we noted that the local ABC affiliate, Channel 13, reported that the University issued a press release that stated in part, “at this point, there has never been a sexual assault report done to L.U.P.D. “ In the formulation of the your response, we request that the University take special notice of Federal regulations at 34 CFR § 668.46 (c)(1) specifically referenced by the complainant. The regulation states that:

“Crimes that must be reported: An institution must report statistics for the three most recent calendar years concerning the occurrence on campus, in or on non-campus buildings or property, and on public property of the following that are reported to local police agencies or to a campus security authority: (i) Criminal homicide: (A) Murder and non-negligent manslaughter. (B) Negligent manslaughter. (ii) Sex offenses: (A) Forcible sex offenses. (B) Non-forcible sex offenses. (iii) Robbery. (iv) Aggravated assault. (v) Burglary. (vi) Motor vehicle theft. (vii) Arson.”

To better understand ED's position on when a crime is reported, appropriate officials may wish to review our "Handbook for Campus Crime Reporting" in the preparation of the institution's response. It is available online at: [www.ed.gov/admins/lead/safety/campus.html](http://www.ed.gov/admins/lead/safety/campus.html). As noted in our previous compliance reports and elsewhere, victims, survivors, witnesses or even perpetrators of crime can report an incident. If the crime meets the criteria enumerated above then the incident is required to be included in the annual campus security report. The person who makes a report is not responsible for properly coding an incident nor is there any requirement that specific language be used such as "I was raped" or "my dorm room was burglarized." The requirement to include such incidents in the annual campus security report endures even if no written report is generated. ED reiterated this point in the aforementioned Handbook, which states in relevant part, "a crime is reported when it is brought to the attention of a campus security authority or the local police."

As stated previously, we will have to consider the matter more completely before making a Final Determination as to whether or not a violation of the Clery Act or other Federal statutes and/or regulations has occurred. As part of our review process, we will need to evaluate additional information from the complainant and the University. In furtherance of our efforts, we respectfully request that you direct the appropriate officials to prepare a comprehensive response to all of the allegations outlined above and items #1-9 below:

1. A copy of LU's 2003, 2004, and 2005 Annual Campus Security Reports;
2. A comprehensive explanation of LU's policies and procedures for the development and distribution of its annual campus security reports. The explanation must address the identification of data sources for statistics, the compilation of data, policy development and implementation, approval of the report, publishing of the report, and distribution of the report. Where necessary, LU's description of the above must address any divergence in the process for electronic and hardcopy versions of the report.
3. A copy of all records generated by the University, its officials, and its police force pursuant to the reporting of the alleged April 2005 sexual assault to campus security authorities. These records must include unedited, unredacted copies of all original incident reports and any revisions: all evidence, supplemental or investigative reports; and; any other memos, notes, electronic messages or database entries, or other record containing relevant information;
4. All guidance, policies, and procedures for the issuance of "timely warnings" as required by the Clery Act. Please advise if a timely warning was issued in this case. If a warning was issued, please provide a copy. If one was not, please explain why a warning was not issued.


5. All guidance, policies, and procedures regarding the entry of incidents of crime reported into LU's public crime log. Please advise if a crime log entry was made as a result of the April 2005 incident. If an entry was made, please provide a copy. If the incident was not entered, please explain its omission. Please also explain when the University began maintaining a public crime log.
6. An explanation of the University's policies and procedures for "aftercare" for survivors of sexual assaults and other violent crimes to include counseling resources, healthcare, residence life programs, or other initiatives or accommodations typically made available to survivors.
7. Copies of all relevant publications including LU's Student Handbooks, and any other documentation provided to staff and students that pertain to any of LU's campus security and policing, conduct standards, or disciplinary programs;
8. Copies of all documents and other information necessary to support any and all representations made and positions taken in your response.

The University's response is intended to provide a full opportunity to provide information regarding these issues before this office renders any Final Determinations. For this reason, we respectfully request that the University prepare its response and supporting materials in as accurate and complete a manner as possible. After your response is received and thoroughly reviewed, this office will either issue a Final Determination or conduct additional analysis. If violations are noted, we will advise the University of the exceptions, required corrective actions, and other appropriate measures that may be needed to bring the University into compliance with Federal statutes and regulations.

Please submit your response to the attention of Ms. Nancy P. Klingler, Area Case Director, at the address on page # 1 of this letter.

We appreciate your anticipated assistance and cooperation as we work together to resolve this important matter. If you have any questions, please call Mr. James Moore of this office on (215) 656-6495.

Sincerely,



John S. Loreng  
Team Leader

cc: Mr. David L. Young, Executive Vice President  
Col. Randall E. Smith, Chief, Liberty University Police Department  
Ms. Rhonda F. Allbeck, Director of Financial Aid